

JULY 19, 2004

**Council of Great Lake Governors
Great Lakes Water Management Initiative
Request for Public Comment**

Background and Purpose

The Great Lakes are a bi-national public treasure and are held in trust by the Great Lakes States and Provinces. For the last nineteen years, the Great Lakes Governors and Premiers have followed a set of principles included in the Great Lakes Charter to guide them in developing, maintaining, and strengthening the regional management regime for the Great Lakes ecosystem.

There has been significant progress in restoring and improving the health of the ecosystem of the Great Lakes Basin. However, the Waters and Water-Dependent Natural Resources of the Basin remain at risk of damage from pollution, environmental disruptions, and unsustainable water resource management practices that may individually and cumulatively alter the hydrology of the Great Lakes ecosystem.

To address these concerns, on June 18, 2001, the Great Lakes Governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin joined with the Premiers of Ontario and Quebec in signing the Great Lakes Charter Annex 2001 in Niagara Falls, New York. The Charter Annex is an amendment to the Great Lakes Charter of 1985, both good-faith agreements signed by all the Great Lakes Governors and Premiers. The Charter Annex was developed to update the Great Lakes regional water management system and ensure the Great Lakes are protected, conserved, restored and improved for future generations.

Request for Public Comment

The Council of Great Lakes Governors (the Council) is seeking public review and comment on the attached draft proposal to implement Annex 2001. The draft proposal was developed by staff of the eight States and two Provinces who constitute the Governors' and Premiers' Water Management Working Group. **This draft proposal is a product of the Working Group to elicit public comment and input; it does not have the final endorsement of the Governors and Premiers.** This Request for Public Comment Paper:

- Provides a brief background and purpose for the proposal;
- Describes the process that was used to complete the proposal and the process anticipated for completing a final proposal for consideration by the Governors and Premiers;
- Provides a summary of the proposal;
- Highlights issues where public comment is particularly requested; and,
- Describes the public comment period process and schedule.

JULY 19, 2004

Development Process

The Governors and Premiers charged a Water Management Working Group (Working Group) with developing a draft proposal to implement Annex 2001. The Governors and Premiers directed the Council to facilitate this process. The Working Group consists of at least one technical representative from each jurisdiction and one representative designated by each Governor's and Premier's immediate office. For the past three years, the Working Group has been working to develop the implementing agreement(s) including a uniform, resource-based standard.

To meet the Annex commitment to develop a broad based public participation program, an Advisory Committee was created with over twenty representatives comprising a wide range of environmental, agricultural, municipal, shipping and industrial concerns. The Advisory Committee has been asked to share their expertise and provide advice throughout the Annex implementation process. In addition to the Advisory Committee, the Working Group has also sought input from a Resource Group and Observers that include representatives from federal agencies, the International Joint Commission, the Great Lakes Commission and other governmental and related organizations. Finally, the individual jurisdictions have been engaging in ongoing consultation with their relevant Tribes and First Nations while this proposal has been developed.

To facilitate dialogue with the range of interested and affected parties, the Water Management Working Group has also provided project progress reports through periodic updates posted on the Council website and e-mail communiqués.

The Proposal

The draft proposal that is now available for public comment is the result of this process. The draft proposal consists of two elements:

- The Great Lakes Basin Sustainable Water Resources Agreement (the Agreement), a good-faith agreement among the 10 Great Lakes States and Provinces; and,
- The Great Lakes Basin Water Resources Compact (the Compact), an agreement among the 8 Great Lakes States to join together in an interstate compact to enhance joint decision making about the use of Great Lakes water.

The decision making standard to be used in evaluating future new or increased water uses is included in both the Agreement and the Compact.

The Agreement includes the following chapters:

- Preamble
- General Provisions
- The Standard
- Water Management Programs Within the Jurisdictions
- Great Lakes Water Resources Regional Body
- Regional Review
- Dispute Resolution
- Final Provisions
- Appendix 1 –Decision Making Standard
- Appendix 2 - Procedures Manual

JULY 19, 2004

The Compact includes the following Articles:

- Short Title, Definitions, Purposes and Duration
- Organization
- Powers and Duties
- Dispute Resolution
- General Provisions
- Effectuation
- Authority to Collect Data
- Regional Review of Proposals and the Standard of Review and Decision
- Jurisdictional Programs and the Standard of Review and Decision
- Additional Provisions

The Working Group continues to examine the relationship of these agreements to any future modifications of major historical diversions. The scope of this discussion includes the role of the Regional Body, the Compact Council, the Regional Review process, the Compact Council Review process, Declarations of Finding and the Decision Making Standard.

Again, this draft proposal is a product of the Working Group to elicit public comment and input. **No final decisions on the proposal will occur until public comments have been received, reviewed and considered by the Working Group.** Following this process, the Working Group will make recommendations to the Governors and Premiers for their consideration.

Issues for Public Comment

The Working Group welcomes comments on all aspects of the draft proposal. Specific issues have been identified where comments are particularly sought to assist the Working Group:

The Agreement:

- Would you recommend changes to the Regional Review Process, including any changes that could help ensure timely, cost-effective review of water use proposals that are subject to regional review?
- Would you recommend changes related to public participation?

The Compact:

- What is your recommendation for voting on New or Increased Diversions of 1 million gallons per day or greater average over any 120-day period and New or Increased Consumptive Uses of 5 million gallons per day or greater average over any 120-day period? Note: The draft proposal would require unanimity among those who register their vote to approve New or Increased Diversions of 1 million gallons per day or greater average over any 120-day period and a super-majority for New or Increased Consumptive Uses of 5 million gallons per day or greater average over any 120-day period.
- Would you recommend changes related to public participation?
- What recommendations do you have for enforcing the terms of the Compact?

JULY 19, 2004

Decision Making Standard (Agreement and Compact):

- Would you recommend making changes to the threshold levels for regional review? Note: The draft proposal would subject New or Increased Diversions of 1 million gallons per day or greater average over any 120-day period and New or Increased Consumptive Uses of 5 million gallons per day or greater average over any 120 day period to regional review by all ten jurisdictions. Other proposals would be reviewed by the jurisdiction in which the proposal originates.
- Would you recommend making changes to the requirements included in the Decision Making Standard for determining the adequacy of proposed improvements to the Waters and Water-Dependent Natural Resources of the Great Lakes Basin?
- Would you recommend making changes to the averaging period used to determine the volume of a proposed water use? Note: The draft proposal includes a 120-day averaging period.
- Would you recommend making changes to the definition of “Existing Water Users”? Note: In the draft proposal, this definition is used for determining which new or increased water uses would be subject to the Decision Making Standard.

Public Comment Period

The public comment period on the draft proposal begins on July 19, 2004 and will last for 90 days. The Council will conduct public meetings in Chicago, Illinois on September 8 and in Toronto, Ontario on September 20. The States, Ontario and Quebec will hold public meetings during the public comment period as well.

Comments are requested in the form of recommendations. Because of the number of comments expected, we are unable to send individual responses.

Written comments on the proposal should be sent to:

David Naftzger
Executive Director
Council of Great Lakes Governors
35 E. Wacker Drive, Suite 1850
Chicago, Illinois 60601

Comments may also be submitted via e-mail to:

Annex2001@cglg.org

Comments can also be submitted online via the Council of Great Lakes Governors’ website at <http://www.cglg.org>. Comments submitted in this manner will also be available for public viewing on our website.